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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,593	02/18/2004	Floyd Backes	160-056	3377

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EXAMINER

PHILPOTT, JUSTIN M

ART UNIT PAPER NUMBER

2665

DATE MAILED: 09/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,593

Applicant(s)

BACKES, FLOYD

Examiner

Justin M. Philpott

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20050527</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed July 5, 2004 have been fully considered but they are not persuasive.
2. Specifically, applicant argues (pages 5-6), that Vlcek does not teach each limitation of applicant's claim 1 because "[t]he distance 'd' of Vlcek represents the distance from the vehicle to an 'incident site', not the central station" according to col. 7, lines 46-47, a passage not relied upon by Examiner in the rejection. While this argument may be persuasive *if* applicant's claim 1 were amended to recite that the bid message includes the *actual value of the distance* between the access point and the station, claim 1 does not presently include such a limitation and, consequently, applicant's argument is not persuasive. In particular, applicant is directed to col. 7, lines 5-14 of Vlcek, cited by Examiner in the previous office action, wherein Vlcek clearly teaches transmitting "present status, location and any other requested information" from the vehicle mobile devices to the central station C; and further, applicant is directed to col. 4, lines 29-33 of Vlcek, also cited by Examiner in the previous office action, wherein Vlcek clearly teaches replying to the bid message (e.g., response to interrogation signal) from the central station with "present location and status of each vehicle". Such location information inherently includes "a parameter related to the distance between the [vehicle] and the [central] station" as recited in applicant's claim 1, since the location of the vehicle, when known by the central station, inherently is a parameter which would "relate[] to the distance" between it and the central station. While Vlcek may provide the additional teachings (such as the portion of Vlcek

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cited by applicant in applicant's argument) of sending a specific distance *d*, such a teaching does not negate the fact that Vlcek teaches "a parameter related to the distance between the [vehicle] and the [central] station" as broadly recited in applicant's claim 1. Further, reference to col. 11, lines 24-41 of Vlcek indicates that the central station is in fact equipped to additionally determine a distance based upon the location information it receives (e.g., see specifically, col. 11, lines 37-41), further supporting the fact that location information of a vehicle sent to the central station includes "a parameter related to the distance between the [vehicle] and the [central] station" as recited in applicant's claim 1. Accordingly, applicant's argument is not persuasive.

3. Additionally, applicant argues (pages 6-8) that Karaoguz does not teach the range acknowledgement message causes the station to "associate" with the access point as recited in applicant's claim 1. However, in paragraph 0036 cited by Examiner in the previous office action, Karaoguz recites, "the wireless device receives the range message signal, ... process[es] the received range message signal. Furthermore, the wireless device can *determine whether or not to further establish communication with the access point*" (emphasis added), in which case it will respond with a "range message acknowledgement", (see paragraph 0036). Applicant's assertion that making a "determin[ation] ... to further establish communication with the access point" as recited by Karaoguz does not equate to the device "associat[ing] with the access point", as recited in applicant's claim 1, is not persuasive since Karaoguz clearly teaches this broad limitation of applicant's claim. That is, further establishing communication with an access point clearly anticipates "associat[ing] with the access point" as broadly recited in applicant's claim 1. If applicant believes applicant's invention differs from Karaoguz, applicant is invited to amend

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applicant's claim 1 to recite a distinguishable difference. As presently written, claim 1 remains anticipated by Karaoguz. Accordingly, applicant's argument is not persuasive.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,493,694 to Vlcek et al.

Regarding claim 1, Vlcek teaches a method comprising: collecting bid messages from stations (e.g., response to interrogation signal by mobile devices at vehicles, see col. 4, lines 29-33; col. 7, lines 5-14; and col. 11, lines 33-41), each bid message including a parameter related to the distance between the access point (e.g., central station C, see FIG. 1) and the station (e.g., see col. 7, lines 5-14; and col. 11, lines 33-41 regarding the distance d to the central station); and sending an accept message (e.g., notify selected vehicle, see col. 11, lines 42-45) to one of the stations (e.g., mobile devices at vehicle) from which a bid message was received, the accept message for causing the station to associate with the access point (e.g., for causing the central station to select the particular mobile device/vehicle, see col. 11, lines 42-45).

Regarding claim 5, Vlcek teaches the method discussed above regarding claim 1 and, further, teaches maintaining a table including an entry for each station from which a bid message has been received (e.g., see col. 8, lines 1-44 and TABLE 1), each entry including a parameter

(e.g., site distance $d(n)$); and sending an accept message to the station in the table having the parameter indicating the closest distance (e.g., see col. 11, lines 42-45 regarding selection).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent Application Publication No. US 2004/0054767 A1 by Karaoguz et al.

Regarding claim 1, Karaoguz teaches a method for use in an access point (e.g., access points 410a-n, see FIG. 4) in a wireless communications environment including multiple access points (e.g., access points 410a-n in FIG. 4) and stations (e.g., wireless devices 415a-n), wherein stations gain network access by associating with one or more of the access points (e.g., see paragraph 0021), comprising: collecting bid messages (e.g., see paragraphs 0029-0036 regarding access points gathering location and identity information of the wireless devices and transmitting range messages to the stations), each bid message (e.g., range message) including a parameter related to the distance between the access point and the station (e.g., see paragraph 0033 regarding range message comprising location information indicating the distance range; see also paragraph 0041-0042 regarding location information); and sending an accept message (e.g., range message acknowledgement) from which a bid message was received, the accept message for causing the station to associate with the access point (e.g., see paragraphs 0033-0036 wherein

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the wireless device further establishes communication with the access point). However, Karaoguz teaches the *station* (not the access point) comprises the functional elements for causing the access point-to-station association (e.g., wherein bid messages are sent from the access point, instead of the station; and accept messages are sent from the station, instead of the access point).

While Karaoguz teaches the station comprises the functional elements for causing the association (e.g., wherein bid messages are sent from the access point, instead of the station; and accept messages are sent from the station, instead of the access point), it is generally considered to be within the ordinary skill in the art to shift the location of parts absent a showing of unexpected results. Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to shift the location of association elements from the station to the access point (i.e., wherein bid messages would be sent from the station and accept messages from the access point) since it is generally considered to be within the ordinary skill in the art to shift the location of parts absent a showing of unexpected results. The contention of obvious choice in design can be overcome if Applicant establishes unexpected results. In re Japikse, 86 USPQ 70 (CCPA 1950).

Regarding claim 3, while Karaoguz may not specifically disclose sending an accept message only if a maximum number of associations has not been exceeded, Karaoguz further teaches network optimization is performed (e.g., see paragraphs 0027-0028 and 0045), wherein it is implicit that the number of permissible associations in the network cannot be exceeded. Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to send an accept message only if a maximum number of associations has not been exceeded, since Karaoguz further teaches network optimization is performed (e.g., see paragraphs 0027-0028 and

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0045) and it is implicit that the number of permissible associations in the network cannot be exceeded.

Regarding claim 4, Karaoguz teaches maintaining a table including an entry for each station from which a bid message (e.g., range message) has been received, each entry including the parameter (e.g., see paragraph 0043 regarding storage of location information within central server).

Regarding claim 5, Karaoguz teaches the method discussed above regarding claim 1 and further, teaches maintaining a table including an entry for each station from which a bid message has been received, each entry including the parameter (e.g., see paragraph 0043 regarding storage of location information within central server). Further, while Karaoguz may not specifically disclose the accept message is sent to the device having the parameter indicating the closest distance, Karaoguz teaches network optimization is performed (e.g., see paragraphs 0027-0028 and 0045), wherein it is implicit that the closest device is selected for association in order for the system to operate efficiently. Thus, at the time of the invention it would have been obvious for the accept message in Karaoguz to be sent to the device having the parameter indicating the closest distance, since Karaoguz teaches network optimization is performed (e.g., see paragraphs 0027-0028 and 0045) and it is implicit that the closest device is selected for association in order for the system to operate efficiently.

8. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karaoguz in view of U.S. Patent No. 6,266,537 to Kashitani et al.

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Regarding claim 2, Karaoguz teaches the method discussed above regarding claim 1, however, may not specifically disclose an accept message is sent to the station whose bid message includes the parameter indicating the largest distance change.

Kashitani also teaches a method for associating stations and access points, and specifically discloses associating occurs when the parameter received indicates the largest distance change (e.g., see col. 7, lines 23-32 – col. 8, line 58 regarding polling response signals responding to long-distance ranges or short-distance ranges). The teachings of Kashitani provides reduced interference and increased reliability for wireless transmissions (e.g., see col. 3, line 47 – col. 4, line 26). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the teachings of Kashitani to the method of Karaoguz in order to provide reduced interference and increased reliability for wireless transmissions.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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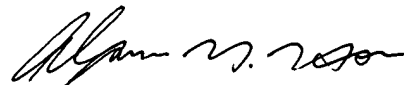
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571.272.3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Justin M Philpott



**ALPUS H. HSU
PRIMARY EXAMINER**